GENOVA & MALIN
Attorneys for the Debtors
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DATE: MAY 19, 2015
TIME: 9:20 A.M.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
--X
IN RE:

VANCE BIENGARDO and
DAWN R. JULIS-BIENGARDO,

Debtors.
--X

CHAPTER 13
CASE NO. 14-36201 (CGM)

FINAL FEE APPLICATION OF GENOVA & MALIN AS COUNSEL FOR THE DEBTOR FOR APPROVAL AND ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND FOR REIMBURSEMENT OF EXPENSES FROM JUNE 9, 2014 THROUGH APRIL 30, 2015

Name of applicant:	GENOVA & MALIN
Authorized to provide professional services to:	Debtors
Date of Retention:	June 9, 2014
Final Fee Application Period for which compensation and reimbursement is sought:	June 9, 2014 through April 30, 2015
Amount of Compensation sought as actual, reasonable and necessary for the **Final Fee Application Period:**	$9,976.38

This is an : _______________ interim ____X________ final application

This is the first and final fee application filed by GENOVA & MALIN with respect to the debtor for the time period specified herein.

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
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IN RE:

CHAPTER 13
CASE NO. 14-36201 (CGM)

VANCE BIENGARDO and
DAWN R. JULIS-BIENGARDO,

Debtors.
---X

APPLICATION FOR FINAL ALLOWANCE OF COMPENSATION AND EXPENSES TO ATTORNEYS FOR DEBTORS UNDER 11 U.S.C. SECTION 330 AND 11 U.S.C. §503(a)

TO THE HONORABLE CECELIA G. MORRIS, CHIEF UNITED STATES BANKRUPTCY JUDGE:

The application of ANDREA B. MALIN, of the firm of GENOVA & MALIN, respectfully represents:

GENERAL BACKGROUND

1. On June 10, 2014, VANCE BIENGARDO and DAWN R. JULIS-BIENGARDO (the "debtors"), filed a petition with this Court for relief pursuant to Chapter 13 of the Bankruptcy Code.

2. Your applicant, on behalf of the debtors, has been responsible for guiding the debtors' estate through Chapter 13 of the Bankruptcy Code.

3. At the time of the filing, the debtors owned their residence at 12 Vineyard Lane, Marlboro, New York 12542 (the "Residence").

4. At the time of the filing, the Residence was encumbered by a first mortgage lien held by Carrington Mortgage Services, LLC as servicer for Deutsche Bank National Trust Company, upon which the debtors had defaulted and sought to modify.

5. At the time of the filing, debtors were addressing mortgage foreclosure issues with an investment property purchased in a corporate name which was personally guaranteed by the debtors.

6. The debtors sought to file the petition in an effort to reorganize their financial situation.

APPLICATION FOR FEES

7. This application is made by GENOVA & MALIN, for an allowance of additional compensation for professional services rendered to and on behalf of the debtors in seeking to loss mitigate the debtors' first mortgage from June 9, 2014 through April 30, 2015.

8. Your applicant has acted as legal counsel to the debtors and has performed all of the necessary professional legal services in connection therewith. GENOVA & MALIN regularly maintains records of time expended in the rendition of such services and the costs and expenses incurred. The entries in such records were made in the ordinary course of GENOVA & MALIN'S business, concurrently with the rendition of such services and the incurring of such costs and expenses. A copy of the Rule 2016(b) Statement filed in this case is attached hereto as Exhibit "A". A copy of the Retainer Agreement is annexed hereto and made a part hereof as Exhibit "B". A summary of the time records and disbursements sheet is annexed hereto and made a part hereof as Exhibit "C". Some of the areas in which your applicant has rendered professional legal services to and on behalf of the debtors are set forth in the following summary.

ALLOWANCE OF COMPENSATION

9. The allowance of compensation to estate professionals is governed by Section 330(a)(1)(A) of the Bankruptcy Code, which authorizes courts to award "reasonable compensation for actual, necessary services rendered." Section 330(a)(3) provides guidance for determining whether compensation is reasonable, pointing out that courts should:

> consider the nature, the extent, and the value of such services, taking into account all relevant factors, including - (A) the time spent on such services; (B) the rate charged for such services; © whether the services were necessary to the administration of, or beneficial at the time which the service was rendered toward the completion of a case under this title; (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; (E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and (F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

The congressional policy expressed above provides for adequate compensation in order to continue to attract qualified and competent professionals to bankruptcy cases. In re Drexel Burnham Lambert Group, Inc., 133 B.R. 13, 18 (B.Ct.S.D.N.Y. 1991) ("Congress' objective in requiring that the market, not the Court, establish attorneys' rates was to ensure that bankruptcy cases were staffed by appropriate legal specialists."). GENOVA & MALIN respectfully submits that consideration of these factors should result in the Court's allowance of the full amount of compensation sought.

SUMMARY OF PROFESSIONAL SERVICES RENDERED

LOSS MITIGATION (26.7 hours; $7,917.50)

10. On June 10, 2014, the debtors filed a Request for Loss Mitigation on her first mortgage.

11. On July 9, 2014, an Order Granting Loss Mitigation Request for the first mortgage was entered by this Court.

12. In pursuing the Loss Mitigation, this firm was required to have several

conferences with the debtors, review financial documents, attend Court directed mediation and conduct conference calls with all parties.

13. On April 7, 2015, the debtors filed a Motion to Approve the Loan Modification Agreement.

14. Due to the efforts of this firm, the debtors were able to reach an outcome which was most beneficial to them.

OBJECTION TO CONFIRMATION FILED BY
WELLS FARGO BANK, N.A. (1.1 hours; $357.50)

15. On July 18, 2014, WELLS FARGO BANK, N.A., the debtors' corporately owned investment property mortgagee filed an Objection to Confirmation of the Plan.

16. In pursuing the Objection, this firm was required to have conferences with the parties, review financial documents and conference with the debtors.

17. Due to the firm's efforts, the matter was resolved expeditiously.

OBJECTION TO CONFIRMATION FILED BY
OCWEN LOAN SERVICING, LLC (.9 hours; $277.50)

18. On July 23, 2014, OCWEN LOAN SERVICING, LLC., the debtors' corporately owned investment property mortgage servicer filed an Objection to Confirmation of the Plan.

19. In pursuing the Objection, this firm was required to have conferences with the parties, review financial documents and conference with the debtors.

20. Due to the firm's efforts, the matter was resolved expeditiously.

OBJECTION TO CONFIRMATION FILED BY
CARRINGTON MORTGAGE SERVICES, LLC (1.0 hours; $317.50)

21. On October, 20 2014, CARRINGTON MORTGAGE SERVICES, LLC ,

the debtors' first mortgagee on the residence filed an Objection to Confirmation of the Plan.

22. In pursuing the Objection, this firm was required to have conferences with the parties, review financial documents and conference with the debtor.

23. Due to the firm's efforts, the matter was resolved expeditiously.

FEE APPLICATION (3.0 hours; $925.00)

24. The times spent on the Fee Application include, without limitation: time spent; (i) preparing fee notice; (ii)) preparing the Fee Application; (iii) copying the Fee Application and Notice; (iv) serving the Fee Application and Notice; (v) and filing the Fee Application and Notice on the Court's ECF System.

25. The services rendered by GENOVA & MALIN during the Final Fee Application Period can be grouped into the following categories:

Service Category	**Hours**	**Fees**
Loss Mitigation	26.7	$7,917.50
Obj.to Conf. (Wells Fargo)	1.1	$ 357.50
Obj.to Conf. (OCWEN)	0.9	$ 277.50
Obj.to Conf. (Carrington)	1.0	$ 317.50
Fee Application	3.0	$ 925.00
TOTAL	32.7	**$ 9,795.00**

26. Accordingly, your applicant has expended 20.4 hours of partner time and 12.3 hours of paralegal time from June 9, 2014 through April 30, 2015, in the rendition of its services to the debtors. The number of hours expended by your applicant was kept to a minimum because of the high level of expertise and experience which your applicant brought to this matter. The following is a brief description of the experience and background of your applicant:

THOMAS GENOVA: Mr. Genova has been practicing law in excess of thirty-three (33) years. He has specialized in bankruptcy and reorganization cases as an attorney for debtors, creditors, creditors' committees, and as trustee in bankruptcy. He was a lecturer in Business Law at Marist College from 1985 to 1991; he was a speaker at the New York State Bar Association Programs on Bankruptcy in 1994 and 1995; Eighth Annual Bankruptcy Law Symposium, 1987; National Business Institute Program on Successful Creditors Strategies, 1990; National Business Institute Program on Bankruptcy, 1991; National Business Institute Program on Mortgage Foreclosure, 1992; National Business Institute Program on Basic Bankruptcy in New York, 1993; National Business Institute Program on Foreclosures and Repossession, 1993; and National Business Institute Program on Fundamentals of Bankruptcy Law, 1994. He is a member of the Orange County Bar Association, Dutchess County Bar Association, New York State Bar Association, American Bar Association, National Association of Bankruptcy Trustees; and Mid-Hudson Bankruptcy Bar Association (President, 1990-1991).

ANDREA B. MALIN: Ms. Malin has been practicing law in excess of twenty-four (24) years. She is a member of the New York State and American Bar Associations, Mid-Hudson Bankruptcy Bar Association and National Association of Consumer Bankruptcy Attorneys. She has spoken at several seminars and issued printed materials on all issues regarding Chapter 12 and Chapter 13 Cases, President of the Mid-Hudson Bankruptcy Bar Association for two (2) consecutive years.

Attorney	**Position of Applicant**	**Year Admitted**	**Hourly Billing Rate**	**Total Billed Hours**	**Total Compensation**
Malin, Andrea	Partner	1991	$400.00	20.4	$8,160.00
Total				20.4	$8,160.00
Blended Rate				**$400.00**	

Paraprofessional	Position	Hourly Billing Rate	Total Billed Hours	Total Compensation
Madera, Leah	Senior Legal Assistant	$150.00	3.9	$ 585.00
Ryan, Maryalice	Legal Assistant	$125.00	4.3	$ 537.50
DiPaola, Nicole	Legal Assistant	$125.00	2.1	$ 262.50
Malin, Anthony	Legal Assistant	$125.00	2.0	$ 250.00
Totals for paraprofessionals			12.3	$ 1,635.00
TOTAL			32.7	$ 9,795.00
Total Blended Rate			**$299.54**	

27. Much has been written on the subject of the unusual conditions under which attorneys representing debtors in Chapter 13 cases must work. As is the case in Chapter 11 cases, other than a pre-petition retainer, counsel for debtors in Chapter 13 cases are not assured of any further payment. Nevertheless, they continue to work to protect their clients' interests, knowing that they may never be paid for all of their time. Accordingly, as is done in Chapter 11 cases, applicant urges the Court to make an award of compensation that involves the adjustment of the lodestar amount to reflect certain factors. In the present case, it is respectfully submitted that the delay in payment, the quality of representation, and the results obtained, should be taken into consideration in computing the award of final compensation.

28. Further consideration should be given to the time value of the money had it been paid contemporaneously with the rendition of services. Your Applicant believes that the allowance sought herein for services rendered and to be rendered is clearly fair and reasonable,

particularly in view of the complexity of the case and the issues presented therein.

29. Your applicant's standard time charge for the period from June 9, 2014 to date is FOUR HUNDRED DOLLARS ($400.00) per hour for partner time, ONE HUNDRED FIFTY DOLLARS ($150.00) per hour for senior paralegal time; and ONE HUNDRED TWENTY-FIVE DOLLARS ($125.00) per hour for paralegal time.

EXPENSES

30. In addition to the foregoing, your applicant seeks reimbursement for the actual and necessary expenses incurred by GENOVA & MALIN in connection with the rendition of professional services as aforesaid, as follows:

Expense Category	**Amount**
Copy Costs (813 @ .10)	$81.30
Postage	$100.08
Facsimile	$00.00
TOTAL	**$181.38**

COMPLIANCE WITH GUIDELINES

31. GENOVA & MALIN believes that this Application substantially complies with the Guidelines. To the extent there has not been material compliance with any particular rule or guideline, GENOVA & MALIN respectfully requests a waiver or opportunity to cure.

32. No previous allowance has been made to your applicant for the services rendered as hereinafter set forth and no previous application has been made therefor to this Court, or any other court, for compensation. Your applicant has not, in any form or guise, shared or agreed to share compensation to be received by it or any other person for services rendered in

connection with this matter. No agreement or understanding prohibited by 18 U.S.C. §155 has been made by your applicant.

WHEREFORE, your applicant respectfully requests that the Court enter an Order under 11 U.S.C. Sections 330 and 503 allowing final compensation in the amount of NINE THOUSAND SEVEN HUNDRED AND NINETY-FIVE DOLLARS ($9,795.00) and costs and expenses in the sum of ONE HUNDRED EIGHTY-ONE DOLLARS AND THIRTY-EIGHT CENTS ($181.38); totaling a sum of NINE THOUSAND NINE HUNDRED SEVENTY-SIX DOLLARS AND THIRTY-EIGHT CENTS ($9,976.38); and for such other and further relief as to the Court may seem just and proper.

Dated: Wappingers Falls, New York
April 15, 2015

GENOVA & MALIN
Attorneys for Debtor

By: /s/ Andrea B. Malin
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